

SENATE AMENDMENTS

2nd Printing

By: Lozano, Wu, Guillen

H.B. No. 1424

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the designation of certain synthetic compounds to
3 Penalty Group 2 or 2-A of the Texas Controlled Substances Act;
4 increasing penalties for certain persons convicted of the
5 manufacture and delivery of controlled substances.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Sections 481.002(5) and (6), Health and Safety
8 Code, are amended to read as follows:

9 (5) "Controlled substance" means a substance,
10 including a drug, an adulterant, and a dilutant, listed in
11 Schedules I through V or Penalty Group [~~Groups~~] 1, 1-A, [~~or~~] 2, 2-A,
12 3, or [~~through~~] 4. The term includes the aggregate weight of any
13 mixture, solution, or other substance containing a controlled
14 substance.

15 (6) "Controlled substance analogue" means:

16 (A) a substance with a chemical structure
17 substantially similar to the chemical structure of a controlled
18 substance in Schedule I or II or Penalty Group 1, 1-A, [~~or~~] 2, or
19 2-A; or

20 (B) a substance specifically designed to produce
21 an effect substantially similar to, or greater than, the effect of a
22 controlled substance in Schedule I or II or Penalty Group 1, 1-A,
23 [~~or~~] 2, or 2-A.

24 SECTION 2. Section 481.103(a), Health and Safety Code, is

1 amended to read as follows:

2 (a) Penalty Group 2 consists of:

3 (1) any quantity of the following hallucinogenic
4 substances, their salts, isomers, and salts of isomers, unless
5 specifically excepted, if the existence of these salts, isomers,
6 and salts of isomers is possible within the specific chemical
7 designation:

8 alpha-ethyltryptamine;

9 alpha-methyltryptamine;

10 5-(2-aminopropyl)benzofuran (5-APB);

11 6-(2-aminopropyl)benzofuran (6-APB);

12 5-(2-aminopropyl)-2,3-dihydrobenzofuran

13 (5-APDB);

14 6-(2-aminopropyl)-2,3-dihydrobenzofuran

15 (6-APDB);

16 5-(2-aminopropyl)indole (Trade or other names:

17 5-IT, 5-API);

18 6-(2-aminopropyl)indole (Trade or other names:

19 6-IT, 6-API);

20 Benzothiophenylcyclohexylpiperidine (BTCP);

21 4-bromo-2, 5-dimethoxyamphetamine (some trade or

22 other names: 4-bromo-2, 5-dimethoxy-alpha-methylphenethylamine;

23 4-bromo-2, 5-DMA);

24 4-bromo-2, 5-dimethoxyphenethylamine;

25 8-bromo-alpha-methyl-benzo[1,2-b:4,5-b']difuran-

26 4-ethanamine (Trade or other name: Bromo-DragonFLY);

27 Bufotenine (some trade and other names: 3-(beta-

1 Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)- 5-
2 indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-
3 dimethyltryptamine; mappine);

4 Desoxypipradrol (2-benzhydrylpiperidine);
5 Diethyltryptamine (some trade and other names: N,
6 N-Diethyltryptamine, DET);

7 2, 5-dimethoxyamphetamine (some trade or other
8 names: 2, 5-dimethoxy-alpha-methylphenethylamine; 2, 5-DMA);

9 2, 5-dimethoxy-4-ethylamphetamine (trade or other
10 name: DOET);

11 2, 5-dimethoxy-4-(n)-propylthiophenethylamine
12 (trade or other name: 2C-T-7);

13 Dimethyltryptamine (trade or other name: DMT);

14 Diphenylprolinol (diphenyl(pyrrolidin-2-yl)
15 methanol, D2PM);

16 Dronabinol (synthetic) in sesame oil and
17 encapsulated in a soft gelatin capsule in a U.S. Food and Drug
18 Administration approved drug product (some trade or other names for
19 Dronabinol: (a6aR-trans)-6a,7,8,10a-tetrahydro- 6,6, 9-
20 trimethyl-3-pentyl-6H- dibenzo [b,d]pyran-1-ol or (-)-delta-9-
21 (trans)- tetrahydrocannabinol);

22 Ethylamine Analog of Phencyclidine (some trade or
23 other names: N-ethyl-1-phenylcyclohexylamine, (1-
24 phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine,
25 cyclohexamine, PCE);

26 2-ethylamino-2-(3-methoxyphenyl)cyclohexanone
27 (Trade or other name: methoxetamine);

1 Ibogaine (some trade or other names: 7-Ethyl-6,
2 6, beta 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-
3 pyrido [1', 2':1, 2] azepino [5, 4-b] indole; tabernanthe iboga.);
4 5-iodo-2-aminoindane (5-IAI);
5 Mescaline;
6 5-methoxy-N, N-diisopropyltryptamine
7 (5-MeO-DIPT);
8 5-methoxy-N, N-diallyltryptamine (5MeO-DALT);
9 5-methoxy-3, 4-methylenedioxy amphetamine;
10 4-methoxyamphetamine (some trade or other names:
11 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine;
12 PMA);
13 4-methoxymethamphetamine (PMMA);
14 2-(2-methoxyphenyl)-2-(methylamino)cyclohexanone
15 (Trade or other names: 2-MeO-ketamine; methoxyketamine);
16 1-methyl- 4-phenyl-4-propionoxypiperidine (MPPP,
17 PPMP);
18 4-methyl-2, 5-dimethoxyamphetamine (some trade
19 and other names: 4-methyl-2, 5-dimethoxy-alpha-
20 methylphenethylamine; "DOM"; "STP");
21 3,4-methylenedioxy methamphetamine (MDMA, MDM);
22 3,4-methylenedioxy amphetamine;
23 3,4-methylenedioxy N-ethylamphetamine (Also
24 known as N-ethyl MDA);
25 5,6-methylenedioxy-2-aminoindane (MDAI);
26 Nabilone (Another name for nabilone: (+)-trans-
27 3-(1,1-dimethylheptyl)- 6,6a, 7,8,10,10a-hexahydro-1-hydroxy- 6,

1 6-dimethyl-9H-dibenzo[b,d] pyran-9-one;
2 N-benzylpiperazine (some trade or other names:
3 BZP; 1-benzylpiperazine);
4 N-ethyl-3-piperidyl benzilate;
5 N-hydroxy-3,4-methylenedioxyamphetamine (Also
6 known as N-hydroxy MDA);
7 4-methylaminorex;
8 N-methyl-3-piperidyl benzilate;
9 O-Acetylpsilocin (Trade or other name:
10 4-Aco-DMT);
11 Parahexyl (some trade or other names: 3-Hexyl-1-
12 hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b, d]
13 pyran; Synhexyl);
14 1-Phenylcyclohexylamine;
15 1-Piperidinocyclohexanecarbonitrile (PCC);
16 Psilocin;
17 Psilocybin;
18 Pyrrolidine Analog of Phencyclidine (some trade
19 or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);
20 Tetrahydrocannabinols, other than marihuana, and
21 synthetic equivalents of the substances contained in the plant, or
22 in the resinous extractives of Cannabis, or synthetic substances,
23 derivatives, and their isomers with similar chemical structure and
24 pharmacological activity such as:
25 delta-1 cis or trans tetrahydrocannabinol,
26 and their optical isomers;
27 delta-6 cis or trans tetrahydrocannabinol,

1 and their optical isomers;

2 delta-3, 4 cis or trans
3 tetrahydrocannabinol, and its optical isomers;

4 compounds of these structures, regardless of
5 numerical designation of atomic positions, since nomenclature of
6 these substances is not internationally standardized;

7 Thiophene Analog of Phencyclidine (some trade or
8 other names: 1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienyl
9 Analog of Phencyclidine; TPCP, TCP);

10 1-pyrrolidine (some trade or other name: TCPy);

11 1-(3-trifluoromethylphenyl)piperazine (trade or
12 other name: TFMPP); and

13 3,4,5-trimethoxy amphetamine;

14 (2) Phenylacetone (some trade or other names:
15 Phenyl-2-propanone; P2P, Benzylmethyl ketone, methyl benzyl
16 ketone);

17 (3) unless specifically excepted or unless listed in
18 another Penalty Group, a material, compound, mixture, or
19 preparation that contains any quantity of the following substances
20 having a potential for abuse associated with a depressant or
21 stimulant effect on the central nervous system:

22 Aminorex (some trade or other names: aminoxaphen;
23 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-
24 phenyl-2-oxazolamine);

25 Amphetamine, its salts, optical isomers, and
26 salts of optical isomers;

27 Cathinone (some trade or other names: 2-amino-1-

1 phenyl-1-propanone, alpha-aminopropiophenone, 2-
2 aminopropiophenone);
3 Etaqualone and its salts;
4 Etorphine Hydrochloride;
5 Fenethylline and its salts;
6 Lisdexamfetamine, including its salts, isomers,
7 and salts of isomers;
8 Mecloqualone and its salts;
9 Methaqualone and its salts;
10 Methcathinone (some trade or other names: 2-
11 methylamino-propiofenone; alpha-(methylamino)propriophenone;
12 2-(methylamino)-1-phenylpropan-1-one; alpha-N-
13 methylaminopropriophenone; monomethylpropion; ephedrone, N-
14 methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR
15 1431);
16 N-Ethylamphetamine, its salts, optical isomers,
17 and salts of optical isomers; and
18 N,N-dimethylamphetamine (some trade or other
19 names: N,N,alpha-trimethylbenzeneethaneamine;
20 N,N,alpha-trimethylphenethylamine), its salts, optical isomers,
21 and salts of optical isomers; and
22 (4) any compound structurally derived from
23 2-aminopropanal by substitution at the 1-position with any
24 monocyclic or fused-polycyclic ring system, including:
25 (A) compounds further modified by:
26 (i) substitution in the ring system to any
27 extent (including alkyl, alkoxy, alkylendioxy, haloalkyl,

1 hydroxyl, or halide substituents), whether or not further
2 substituted in the ring system by other substituents;

3 (ii) substitution at the 3-position with an
4 acyclic alkyl substituent; or

5 (iii) substitution at the 2-amino nitrogen
6 atom with alkyl, ~~or~~ dialkyl, benzyl, or methoxybenzyl groups, or
7 inclusion of the 2-amino nitrogen atom in a cyclic structure; and

8 (B) by example, compounds such as:

9 4-Methoxymethcathinone (Also known as
10 Methedrone);

11 4-Methylmethcathinone (Also known as
12 Mephedrone);

13 3,4-Dimethylmethcathinone (Also known as
14 3,4-DMMC);

15 3-Fluoromethcathinone (Also known as 3-FMC);

16 4-Fluoromethcathinone (Also known as
17 Flephedrone);

18 3,4-Methylenedioxy-N-methylcathinone (Also
19 known as Methylone);

20 3,4-Methylenedioxypropylpyrovalerone (Also known
21 as MDPV);

22 alpha-Pyrrolidinopentiophenone (Also known
23 as alpha-PVP);

24 Naphthylpyrovalerone (Also known as
25 Naphyrone);

26 beta-Keto-N-methylbenzodioxolylpropylamine
27 (Also known as Butylone);

1 beta-Keto-N-methylbenzodioxolylpentanamine

2 (Also known as Pentylone);

3 beta-Keto-Ethylbenzodioxolylbutanamine

4 (Also known as Eutylone); and

5 3,4-methylenedioxy-N-ethylcathinone (Also
6 known as Ethylone).

7 SECTION 3. Section 481.1031, Health and Safety Code, is
8 amended to read as follows:

9 Sec. 481.1031. PENALTY GROUP 2-A. Penalty Group 2-A
10 consists of any quantity of a synthetic chemical compound that is a
11 cannabinoid receptor agonist and mimics the pharmacological effect
12 of naturally occurring cannabinoids, including:

13 naphthoylindoles structurally derived from
14 3-(1-naphthoyl)indole with or without [~~by~~] substitution at the
15 nitrogen atom of the indole ring by alkyl, haloalkyl, alkenyl,
16 cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl)
17 methyl, cyanoalkyl, (N-methylpyrrolidin-2-yl)methyl,
18 (tetrahydropyran-4-yl)methyl, ((N-methyl)-3-morpholinyl)methyl,
19 or 2-(4-morpholinyl)ethyl, whether or not further substituted in
20 the indole ring to any extent, whether or not substituted in the
21 naphthyl ring to any extent, including:

22 AM-2201;

23 JWH-004;

24 JWH-007;

25 JWH-009;

26 JWH-015;

27 JWH-016;

- 1 JWH-018;
- 2 JWH-019;
- 3 JWH-020;
- 4 JWH-046;
- 5 JWH-047;
- 6 JWH-048;
- 7 JWH-049;
- 8 JWH-050;
- 9 JWH-073;
- 10 JWH-076;
- 11 JWH-079;
- 12 JWH-080;
- 13 JWH-081;
- 14 JWH-082;
- 15 JWH-083;
- 16 JWH-093;
- 17 JWH-094;
- 18 JWH-095;
- 19 JWH-096;
- 20 JWH-097;
- 21 JWH-098;
- 22 JWH-099;
- 23 JWH-100;
- 24 JWH-116;
- 25 JWH-122;
- 26 JWH-148;
- 27 JWH-149;

- 1 JWH-153;
- 2 JWH-159;
- 3 JWH-164;
- 4 JWH-165;
- 5 JWH-166;
- 6 JWH-180;
- 7 JWH-181;
- 8 JWH-182;
- 9 JWH-189;
- 10 JWH-193;
- 11 JWH-198;
- 12 JWH-200;
- 13 JWH-210;
- 14 JWH-211;
- 15 JWH-212;
- 16 JWH-213;
- 17 JWH-234;
- 18 JWH-235;
- 19 JWH-239;
- 20 JWH-240;
- 21 JWH-241;
- 22 JWH-242;
- 23 JWH-258;
- 24 JWH-259;
- 25 JWH-260;
- 26 JWH-262;
- 27 JWH-267;

1 JWH-386;
2 JWH-387;
3 JWH-394;
4 JWH-395;
5 JWH-397;
6 JWH-398;
7 JWH-399;
8 JWH-400;
9 JWH-412;
10 JWH-413; and
11 JWH-414;

12 naphthylmethylinrones structurally derived from
13 1H-indol-3-yl-(1-naphthyl)methane with or without [~~by~~]
14 substitution at the nitrogen atom of the indole ring by alkyl,
15 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
16 (N-methylpiperidin-2-yl)methyl, cyanoalkyl, (N-methylpyrrolidin-
17 2-yl)methyl, (tetrahydropyran-4-yl)methyl, ((N-methyl)-3-
18 morpholinyl)methyl, or 2-(4-morpholinyl)ethyl, whether or not
19 further substituted in the indole ring to any extent, whether or not
20 substituted in the naphthyl ring to any extent, including:

21 JWH-175;
22 JWH-184;
23 JWH-185;
24 JWH-192;
25 JWH-194;
26 JWH-195;
27 JWH-196;

1 JWH-197; and
2 JWH-199;
3 naphthoylpyrroles structurally derived from
4 3-(1-naphthoyl)pyrrole with or without [~~by~~] substitution at the
5 nitrogen atom of the pyrrole ring by alkyl, haloalkyl, alkenyl,
6 cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl)
7 methyl, cyanoalkyl, (N-methylpyrrolidin-2-yl)methyl,
8 (tetrahydropyran-4-yl)methyl, ((N-methyl)-3-morpholinyl)methyl,
9 or 2-(4-morpholinyl)ethyl, whether or not further substituted in
10 the pyrrole ring to any extent, whether or not substituted in the
11 naphthyl ring to any extent, including:

- 12 JWH-030;
- 13 JWH-145;
- 14 JWH-146;
- 15 JWH-147;
- 16 JWH-150;
- 17 JWH-156;
- 18 JWH-243;
- 19 JWH-244;
- 20 JWH-245;
- 21 JWH-246;
- 22 JWH-292;
- 23 JWH-293;
- 24 JWH-307;
- 25 JWH-308;
- 26 JWH-309;
- 27 JWH-346;

- 1 JWH-347;
- 2 JWH-348;
- 3 JWH-363;
- 4 JWH-364;
- 5 JWH-365;
- 6 JWH-366;
- 7 JWH-367;
- 8 JWH-368;
- 9 JWH-369;
- 10 JWH-370;
- 11 JWH-371;
- 12 JWH-372;
- 13 JWH-373; and
- 14 JWH-392;

15 naphthylmethylindenes structurally derived from
16 1-(1-naphthylmethyl)indene with or without [~~by~~] substitution at
17 the 3-position of the indene ring by alkyl, haloalkyl, alkenyl,
18 cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl)
19 methyl, cyanoalkyl, (N-methylpyrrolidin-2-yl)methyl,
20 (tetrahydropyran-4-yl)methyl, ((N-methyl)-3-morpholinyl)methyl,
21 or 2-(4-morpholinyl)ethyl, whether or not further substituted in
22 the indene ring to any extent, whether or not substituted in the
23 naphthyl ring to any extent, including:

- 24 JWH-171;
- 25 JWH-172;
- 26 JWH-173; and
- 27 JWH-176;

1 phenylacetylindoles structurally derived from
2 3-phenylacetylindole with or without [~~by~~] substitution at the
3 nitrogen atom of the indole ring with alkyl, haloalkyl, alkenyl,
4 cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl)
5 methyl, cyanoalkyl, (N-methylpyrrolidin-2-yl)methyl,
6 (tetrahydropyran-4-yl)methyl, ((N-methyl)-3-morpholinyl)methyl,
7 or 2-(4-morpholinyl)ethyl, whether or not further substituted in
8 the indole ring to any extent, whether or not substituted in the
9 phenyl ring to any extent, including:

10 AM-694;
11 AM-1241;
12 JWH-167;
13 JWH-203;
14 JWH-204;
15 JWH-205;
16 JWH-206;
17 JWH-208;
18 JWH-237;
19 JWH-248;
20 JWH-249;
21 JWH-250;
22 JWH-251;
23 JWH-252;
24 JWH-253;
25 JWH-302;
26 JWH-303;
27 JWH-305;

1 JWH-306;
2 JWH-311;
3 JWH-312;
4 JWH-313;
5 JWH-314; and
6 JWH-315;

7 cyclohexylphenols structurally derived from
8 2-(3-hydroxycyclohexyl)phenol with or without [by] substitution at
9 the 5-position of the phenolic ring by alkyl, haloalkyl, alkenyl,
10 cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl)
11 methyl, cyanoalkyl, (N-methylpyrrolidin-2-yl)methyl,
12 (tetrahydropyran-4-yl)methyl, ((N-methyl)-3-morpholinyl)methyl,
13 or 2-(4-morpholinyl)ethyl, whether or not substituted in the
14 cyclohexyl ring to any extent, including:

15 CP-55,940;
16 CP-47,497;
17 analogues of CP-47,497, including VII, V, VIII, I,
18 II, III, IV, IX, X, XI, XII, XIII, XV, and XVI;
19 JWH-337;
20 JWH-344;
21 JWH-345; and
22 JWH-405; [~~and~~]

23 benzoylindoles structurally derived from
24 3-(1-naphthoyl)indole with or without substitution at the nitrogen
25 atom of the indole ring with alkyl, haloalkyl, alkenyl,
26 cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl)
27 methyl, cyanoalkyl, (N-methylpyrrolidin-2-yl)methyl,

1 (tetrahydropyran-4-yl)methyl, ((N-methyl)-3-morpholinyl)methyl,
2 or 2-(4-morpholinyl)ethyl, whether or not further substituted in
3 the indole ring to any extent, whether or not substituted in the
4 phenyl ring to any extent, including:

5 1-pentyl-3-(4-methoxybenzoyl)indole (RCS-4); and

6 1-[2-(4-morpholinyl)ethyl]-2-methyl-3-(4-
7 methoxybenzoyl)indole (Pravadoline or WIN 48,098); and

8 cannabinoil derivatives, except where contained in
9 marihuana, including tetrahydro derivatives of cannabinoil and
10 3-alkyl homologues of cannabinoil or of its tetrahydro derivatives,
11 such as:

12 Nabilone;

13 HU-210;

14 HU-211; and

15 WIN-55,212-2.

16 SECTION 4. Section 481.106, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 481.106. CLASSIFICATION OF CONTROLLED SUBSTANCE
19 ANALOGUE. For the purposes of the prosecution of an offense under
20 this subchapter involving the manufacture, delivery, or possession
21 of a controlled substance, Penalty Groups 1, 1-A, ~~and~~ 2, and 2-A
22 include a controlled substance analogue that:

23 (1) has a chemical structure substantially similar to
24 the chemical structure of a controlled substance listed in the
25 applicable penalty group; or

26 (2) is specifically designed to produce an effect
27 substantially similar to, or greater than, a controlled substance

1 listed in the applicable penalty group.

2 SECTION 5. Section 481.119(a), Health and Safety Code, is
3 amended to read as follows:

4 (a) A person commits an offense if the person knowingly
5 manufactures, delivers, or possesses with intent to deliver a
6 controlled substance listed in a schedule by an action of the
7 commissioner under this chapter but not listed in a penalty group.
8 An offense under this subsection is a Class A misdemeanor, except
9 that the offense is:

10 (1) a state jail felony, if the person has been
11 previously convicted of an offense under this subsection; or

12 (2) a felony of the third degree, if the person has
13 been previously convicted two or more times of an offense under this
14 subsection.

15 SECTION 6. The changes in law made by this Act apply only to
16 an offense committed on or after the effective date of this Act. An
17 offense committed before the effective date of this Act is governed
18 by the law in effect on the date the offense was committed, and the
19 former law is continued in effect for that purpose. For purposes of
20 this section, an offense was committed before the effective date of
21 this Act if any element of the offense occurred before that date.

22 SECTION 7. This Act takes effect September 1, 2015.

ADOPTED

MAY 27 2015

Atalay Law
Secretary of the Senate

By: *Zaffarini*

H.B. No. 1424

Substitute the following for H.B. No. 1424:

By: *John Whitmire*

C.S. H.B. No. 1424

A BILL TO BE ENTITLED

1

AN ACT

2 relating to increasing penalties for defendants convicted of the
3 manufacture or delivery of certain controlled substances.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 481.119(a), Health and Safety Code, is
6 amended to read as follows:

7 (a) A person commits an offense if the person knowingly
8 manufactures, delivers, or possesses with intent to deliver a
9 controlled substance listed in a schedule by an action of the
10 commissioner under this chapter but not listed in a penalty group.
11 An offense under this subsection is a Class A misdemeanor, except
12 that the offense is:

13 (1) a state jail felony, if the person has been
14 previously convicted of an offense under this subsection; or

15 (2) a felony of the third degree, if the person has
16 been previously convicted two or more times of an offense under this
17 subsection.

18 SECTION 2. The change in law made by this Act applies only
19 to an offense committed on or after the effective date of this Act.
20 An offense committed before the effective date of this Act is
21 governed by the law in effect on the date the offense was committed,
22 and the former law is continued in effect for that purpose. For
23 purposes of this section, an offense was committed before the
24 effective date of this Act if any element of the offense occurred

1 before that date.

2 SECTION 3. This Act takes effect September 1, 2015.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 28, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1424 by Lozano (Relating to increasing penalties for defendants convicted of the manufacture or delivery of certain controlled substances.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code to enhance punishments for the offense of manufacture, delivery, or possession of miscellaneous substances from a class A misdemeanor to a state jail felony or third degree felony for persons with previous convictions of the same offense. This analysis assumes the bill's provisions would not result in a significant impact on state correctional agencies.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, SD, KJo, LM, ESi

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 22, 2015

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1424 by Lozano (relating to increasing penalties for defendants convicted of the manufacture or delivery of certain controlled substances.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code to enhance punishments for the offense of manufacture, delivery, or possession of miscellaneous substances from a class A misdemeanor to a state jail felony or third degree felony for persons with previous convictions of the same offense. This analysis assumes the bill's provisions would not result in a significant impact on state correctional agencies.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, KJo, LM, ESi

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 20, 2015

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1424 by Lozano (Relating to the designation of certain synthetic compounds to Penalty Group 2 or 2-A of the Texas Controlled Substances Act; increasing penalties for certain persons convicted of the manufacture and delivery of controlled substances.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1424, As Engrossed: a negative impact of (\$2,379,000) through the biennium ending August 31, 2017.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	(\$2,379,000)
2017	\$0
2018	\$0
2019	\$0
2020	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund
2016	(\$2,379,000)
2017	\$0
2018	\$0
2019	\$0
2020	\$0

Fiscal Analysis

The bill would amend the Health and Safety Code to add certain substances to the list of Penalty Groups 2 and 2-A substances in the Texas Controlled Substances Act. Under current law, possession of a Penalty Group 2 substance is punishable at various felony levels, and possession of a 2-A substances is punishable at both misdemeanor and felony levels; punishment for both groups is based on the amount of substance possessed. The bill would also enhance criminal

punishments for the offense of manufacture, delivery, or possession of miscellaneous substances from a Class A misdemeanor to a state jail felony or third degree felony for persons with previous convictions of the same offense.

The Department of Public Safety (DPS) has indicated the bill would require the agency to purchase new Gas Chromatography Fourier Transform Infrared spectrometers (GS FTIR) necessary for compound identification for each of the thirteen crime laboratories operated by the agency.

Methodology

This analysis assumes the agency would need to acquire new GS FTIR spectrometers for each of the agency's thirteen drug testing laboratories at a cost of \$183,000 per unit. Assuming the agency purchases all thirteen of these spectrometers in fiscal year 2016, the one-time cost in fiscal year 2016 is \$2,379,000. It is assumed any ongoing costs associated with operating and maintaining this new equipment can be absorbed within the agency's resources.

This analysis assumes the provisions of the bill related to criminal penalties would not result in a significant impact on state correctional agencies.

Technology

The agency has indicated that implementation of this bill will not have a technological impact.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: UP, JAW, ESi, KJo, AI, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 8, 2015

TO: Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB1424** by Lozano (Relating to the designation of certain synthetic compounds to Penalty Group 2 or 2-A of the Texas Controlled Substances Act; increasing penalties for certain persons convicted of the manufacture and delivery of controlled substances.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1424, As Introduced: a negative impact of (\$2,379,000) through the biennium ending August 31, 2017.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	(\$2,379,000)
2017	\$0
2018	\$0
2019	\$0
2020	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund ¹
2016	(\$2,379,000)
2017	\$0
2018	\$0
2019	\$0
2020	\$0

Fiscal Analysis

The bill would amend the Health and Safety Code to add certain substances to the list of Penalty Groups 2 and 2-A substances in the Texas Controlled Substances Act. Under current law, possession of a Penalty Group 2 substance is punishable at various felony levels, and possession of a 2-A substances is punishable at both misdemeanor and felony levels; punishment for both groups is based on the amount of substance possessed. The bill would also enhance criminal

punishments for the offense of manufacture, delivery, or possession of miscellaneous substances from a Class A misdemeanor to a state jail felony or third degree felony for persons with previous convictions of the same offense.

The Department of Public Safety (DPS) has indicated the bill would require the agency to purchase new Gas Chromatography Fourier Transform Infrared spectrometers (GS FTIR) necessary for compound identification for each of the thirteen crime laboratories operated by the agency.

Methodology

This analysis assumes the agency would need to acquire new GS FTIR spectrometers for each of the agency's thirteen drug testing laboratories at a cost of \$183,000 per unit. Assuming the agency purchases all thirteen of these spectrometers in fiscal year 2016, the one-time cost in fiscal year 2016 is \$2,379,000. It is assumed any ongoing costs associated with operating and maintaining this new equipment can be absorbed within the agency's resources.

This analysis assumes the provisions of the bill related to criminal penalties would not result in a significant impact on state correctional agencies.

Technology

The agency has indicated that implementation of this bill will not have a technological impact.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: UP, JAW, ESi, KJo, AI, LM

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

84TH LEGISLATIVE REGULAR SESSION

May 22, 2015

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1424 by Lozano (relating to increasing penalties for defendants convicted of the manufacture or delivery of certain controlled substances.), **Committee Report 2nd House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Health and Safety Code to enhance criminal punishments for the offense of manufacture, delivery, or possession of miscellaneous substances from a class A misdemeanor to a state jail felony or third degree felony for persons with previous convictions of the same offense.

Increasing the punishment from a misdemeanor to a felony is expected to result in increased demands upon state correctional resources due to additional persons potentially placed under felony community supervision or admitted into state correctional institutions. In fiscal year 2014, 60 people were arrested and 12 were placed under misdemeanor community supervision for the offense of manufacture, delivery, or possession of miscellaneous substances. Under the provisions of the bill, persons with previous convictions of the same offense would be prosecuted for a state jail felony or third degree felony with the prosecution based on the number of previous convictions. This analysis assumes the provisions of the bill would not significantly impact state correctional populations, programs, or workloads.

Source Agencies:

LBB Staff: UP, ESi, LM

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

84TH LEGISLATIVE REGULAR SESSION

May 20, 2015

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1424 by Lozano (Relating to the designation of certain synthetic compounds to Penalty Group 2 or 2-A of the Texas Controlled Substances Act; increasing penalties for certain persons convicted of the manufacture and delivery of controlled substances.), **As Engrossed**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Health and Safety Code to update the Texas Controlled Substances Act to include certain synthetic compounds in Penalty Groups 2 and 2-A. The bill would also enhance criminal punishments for the offense of manufacture, delivery, or possession of miscellaneous substances from a Class A misdemeanor to a state jail felony or third degree felony for persons with previous convictions of the same offense.

The manufacture, delivery, or possession with intent to deliver, of a substance in Penalty Group 2-A is punishable at various felony levels, with the level of punishment increasing in severity based on the amount by weight of the substance manufactured, delivered, or possessed with intent to deliver. The possession of a substance in Penalty Group 2-A is punishable at various misdemeanor and felony levels, with the level of punishment increasing in severity based on the amount by weight of the substance possessed.

Expanding the list of substances for which possession is a criminal offense and increasing the punishment from a misdemeanor to a felony is expected to result in increased demands upon the correctional resources of counties or of the state due to longer terms of probation, or longer terms of confinement in county jail, or state correctional institutions. In fiscal year 2014, 60 people were arrested and 12 were placed on misdemeanor community supervision for the offense of manufacture, delivery or possession of miscellaneous substances. Under the provisions of the bill, persons with previous convictions of the same offense would be prosecuted for a state jail felony or third degree felony with the prosecution based on the number of previous convictions. This analysis assumes the provisions of the bill would not significantly impact state correctional populations, programs, or workloads.

Source Agencies:

LBB Staff: UP, LM, ESi

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

84TH LEGISLATIVE REGULAR SESSION

April 8, 2015

TO: Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1424 by Lozano (Relating to the designation of certain synthetic compounds to Penalty Group 2 or 2-A of the Texas Controlled Substances Act; increasing penalties for certain persons convicted of the manufacture and delivery of controlled substances.), **As Introduced**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Health and Safety Code to update the Texas Controlled Substances Act to include certain synthetic compounds in Penalty Groups 2 and 2-A. The bill would also enhance criminal punishments for the offense of manufacture, delivery, or possession of miscellaneous substances from a Class A misdemeanor to a state jail felony or third degree felony for persons with previous convictions of the same offense.

The manufacture, delivery, or possession with intent to deliver, of a substance in Penalty Group 2-A is punishable at various felony levels, with the level of punishment increasing in severity based on the amount by weight of the substance manufactured, delivered, or possessed with intent to deliver. The possession of a substance in Penalty Group 2-A is punishable at various misdemeanor and felony levels, with the level of punishment increasing in severity based on the amount by weight of the substance possessed.

Expanding the list of substances for which possession is a criminal offense and increasing the punishment from a misdemeanor to a felony is expected to result in increased demands upon the correctional resources of counties or of the state due to longer terms of probation, or longer terms of confinement in county jail, or state correctional institutions. In fiscal year 2014, 60 people were arrested and 12 were placed on misdemeanor community supervision for the offense of manufacture, delivery or possession of miscellaneous substances. Under the provisions of the bill, persons with previous convictions of the same offense would be prosecuted for a state jail felony or third degree felony with the prosecution based on the number of previous convictions. This analysis assumes the provisions of the bill would not significantly impact state correctional populations, programs, or workloads.

Source Agencies:

LBB Staff: UP, LM, ESi